

U. S. FOOD & DRUG ADMINISTRATION
ROOM 223 U. S. CUSTOMHOUSE BLDG
423 CANAL STREET,
NEW ORLEANS, LOUISIANA
United States Department of Agriculture,

Notice of Judgment No.

Issued May 2, 1908.

OFFICE OF THE SECRETARY,
BOARD OF FOOD AND DRUG INSPECTION.

NOTICE OF JUDGMENT NO. 1, FOOD AND DRUGS ACT.

MISBRANDING OF APPLE CIDER.

Section 4 of the Food and Drugs Act of June 30, 1906, in part provides:

After judgment of the court, notice shall be given by publication in such manner as may be prescribed by the rules and regulations aforesaid.

Regulation 6 of the Rules and Regulations for the Enforcement of the Food and Drugs Act, made and promulgated in conformity with section 3 of the Act, in part provides:

(a) When a judgment of the court shall have been rendered there may be a publication of the findings of the examiner or analyst, together with the findings of the court.

(b) This publication may be made in the form of circulars, notices, or bulletins, as the Secretary of Agriculture may direct, not less than thirty days after judgment.

In obedience to the foregoing law and regulation notice is hereby given that on the 10th day of February, 1908, in the Supreme Court of the District of Columbia, in a proceeding of libel for condemnation of one hundred and thirty-five barrels of cider, labeled and branded "Apple Cider," wherein the United States was libellant, and the Semmes-Kelly Company, a corporation, was respondent, the cause having come on for a hearing and claimants having made a default in answering, a decree for condemnation was rendered, in substance and in form as follows:

In the Supreme Court of the District of Columbia, holding a District Court.

UNITED STATES, *Libellant*,
vs.
THE SEMMES-KELLY COMPANY, *a corporation*. } No. 752,
District Docket.

DECREE FOR CONDEMNATION.

On motion of Daniel W. Baker, Esquire, attorney for the libellant, and it appearing to the Court that upon the libel filed herein a warrant of arrest was duly issued and served on the 22nd day of November, 1907, and that by virtue of the said warrant the Marshal has seized one hundred and thirty-five barrels, containing six thousand three hundred and sixteen gallons, more or less, of liquid branded "apple cider" and inventoried as of the value \$631.60 the said one hundred and thirty-five barrels, with contents having been in the possession of the Semmes-Kelly Company, a corporation, respondent, and now being stored

in the custody of the said Marshal, and it further appearing that the Semmes-Kelly Company was duly warned to appear herein on the sixteenth day of December, 1907, and that due and legal notice and proclamation were given to all other persons having any claim, right or interest herein to appear on the said date and answer the exigencies of the said libel, and the said Semmes-Kelly Company having defaulted in filing answer to the said libel, but appearing through its attorneys Messrs. Douglas and Douglas and consenting hereto, and no objection having been signified to the Court, it is this tenth day of February, 1908,

Ordered, adjudged and decreed that the said one hundred and thirty-five barrels with contents, as aforesaid, branded "apple cider" be and they hereby are declared to be misbranded in violation of the Act of June 30, 1906, as charged in the said libel, and it is further ordered that the said one hundred and thirty-five barrels, with contents as aforesaid, branded "apple cider" be, and they hereby are condemned and ordered to be disposed of by sale of the said contents thereof as prayed for in the said libel, and provided for in the said act of June 30, 1906. It is further ordered that the proceeds of said sale, less the legal costs and charges, shall be paid into the Treasury of the United States.

It is provided, however, that upon the payment of all the costs of the proceedings herein, including the costs of hauling, storage, watchman, and all costs incident to or contracted in these proceedings, and the execution and delivery by the said Semmes-Kelly Company, a corporation, to the libellant, of a good and sufficient bond in the penalty of \$3,000.00, conditioned that the said one hundred and thirty-five barrels, with contents branded "apple cider" as aforesaid, shall not be sold or otherwise disposed of contrary to the provisions of the said act of June 30, 1906, the said Marshal shall re-deliver the said one hundred and thirty-five barrels to the said Semmes-Kelly Company, a corporation, in lieu of disposing of them by sale as aforesaid, the said bond to be filed herein if at all, on or before the 20th day of February, 1908.

(Signed)

JOB BARNARD,
Justice.

The case grew out of the following state of facts: On November 15, 1907, an inspector of the Department of Agriculture purchased from the Semmes-Kelly Company, 621 Pennsylvania avenue, Washington, D. C., one barrel of cider labeled "apple cider." This barrel was one of a shipment of one hundred and thirty-five barrels, from the manufacturers, the American Fruit Product Company, Rochester, N. Y., shipped to the Semmes-Kelly Company on or about November 9, 1907.

The sample purchased by the inspector was duly analyzed in the Bureau of Chemistry, Department of Agriculture, and the following result obtained and stated:

Alcohol by volume (per cent)	11.93
Solids (per cent)	3.82
Polarization (degrees Ventzke)	4.0
Reducing sugar after inversion (per cent)	1.28
Sucrose	0.00
Ash (per cent)	0.277
Benzoic or salicylic acid	None
Alkalinity of ash	
30.9 cc N/10 NaOH for 100 cc of cider.	
Phosphoric acid, P ₂ O ₅ (per cent)	0.019

The analysis unmistakably proved that this cider was not the pure expressed juice of apples. The quantity of alcohol determined was 11.93 per cent, an amount so great that it was apparent that some foreign sugar had been added. The cider was therefore misbranded within the terms of section 8 of the act, and on November 22, 1907, the Secretary of Agriculture reported the facts to the United States attorney for the District of Columbia.

Libel for seizure and condemnation of the one hundred and thirty-five barrels of cider was duly filed in the Supreme Court of the District of Columbia under section 10 of the act, upon which seizure was forthwith made and notice given to the Semmes-Kelly Company and all claimants to show cause why the cider should not be condemned.

Respondent having failed to answer or show any cause against condemnation, the cider was adjudged to be misbranded and ordered to be sold as set forth in the decree hereinbefore stated.

This is the first case determined under the Food and Drugs Act and the first to be thus reported. It is interesting as involving the practice of adding sugar to the natural juices of fruit for the purpose of increasing the alcoholic content.

H. W. WILEY,
F. L. DUNLAP,
GEO. P. MCCABE,

Board of Food and Drug Inspection.

Approved:

JAMES WILSON,
Secretary.

WASHINGTON, D. C., *April 22, 1908.*

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